

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
4 State Bar No. 117576
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2011-132

12 **GARY DUNN**

13 3878 E. Eventide Street
14 Tucson, AZ 85706

A C C U S A T I O N

15 Registered Nurse License No. 352876

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On or about September 30, 1982, the Board issued Registered Nurse License Number
24 352876 to Gary Dunn (Respondent). Respondent's registered nurse license was in full force and
25 effect at all times relevant to the charges brought herein and expired on January 31, 2010.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed nurse or
9 deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
15 California health care professional licensing board. A certified copy of the decision
16 or judgment shall be conclusive evidence of that action . . .

14 COST RECOVERY

15 6. Code section 125.3 provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **DRUGS**

20 7. **Clonazepam** is a Schedule IV controlled substance as designated by Health and
21 Safety Code section 11057, subdivision (d)(7).

22 8. **Haldol**, an anti-psychotic drug, is a dangerous drug within the meaning of Code
23 section 4022.

24 9. **Lorazepam** is a Schedule IV controlled substance as designated by Health and Safety
25 Code section 11057, subdivision (d)(16).

26 10. **Percocet**, a brand of Oxycodone, is a Schedule II controlled substance as designated
27 by Health and Safety Code section 11055, subdivision (b)(1)(N).
28

1 11. **Oxycodone** is a Schedule II controlled substance as designated by Health and Safety
2 Code section 11055, subdivision (b)(1)(N).

3 12. **Vicodin** is a compound consisting of 5 mg Hydrocodone Bitartrate, also known as
4 Dihydrocodeinone, and 500 mg Acetaminophen per tablet and is a Schedule III controlled
5 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

6 **CAUSE FOR DISCIPLINE**

7 **(Disciplinary Action by the Arizona State Board of Nursing)**

8 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
9 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined
10 by the Arizona State Board of Nursing (Arizona Board), as follows: On or about January 27,
11 2010, pursuant to Findings of Fact, Conclusions of Law, and Order No. 0710021 in the
12 disciplinary proceeding titled *In the Matter of Registered Nurse License No. RN143011 Issued to:*
13 *Gary Dunn*, the Arizona Board revoked Respondent's license to practice registered nursing in the
14 State of Arizona. A true and correct copy of the Findings of Fact, Conclusions of Law, and Order
15 No. 0710021 is attached hereto as **Exhibit A** and incorporated herein by reference. The Arizona
16 Board adopted the following Findings of Fact which were deemed admitted by Respondent:

17 a. On or about December 4, 2006, through October 15, 2007, Respondent worked at
18 University Physicians Healthcare (UPH) at Kino Campus in Tucson, Arizona.

19 b. On or about October 22, 2007, the Arizona Board received a complaint that on or
20 between July 4, 2007, and August 25, 2007, while Respondent was employed at UPH, there were
21 several controlled substance discrepancies and medications that were withdrawn without
22 documentation of administration. Thus, the Board opened an investigation.

23 c. According to a chart review of Respondent's patients at UPH from on or about July 4,
24 2007, to September 22, 2007, there were at least 30 missing controlled substance medications
25 ranging from Clonazepam, Vicodin, Percocet, Oxycodone, Lorazepam, and Haldol. There were
26 several medications that were removed from the PYXIS system and charted anywhere from one
27 to six hours later and medications were removed and charted on Medication Administration
28

1 Records prior to removal. Medications were also removed from the PYXIS and another nurse
2 had signed medications as given at the same time.

3 d. On or about October 15, 2007, Respondent was terminated from UPH based on his
4 failure to perform to minimum acceptable nursing standards related to medication administration
5 and documentation, failure to follow hospital policy regarding this and maintaining records
6 related to controlled substance administration, as well as poor judgment.

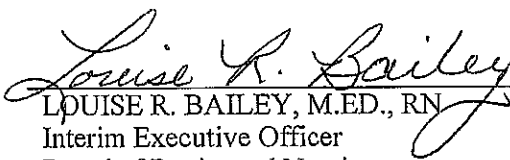
7 e. Over the course of the investigation, particularly between May 1, 2009, and July 22,
8 2009, several attempts were made to contact Respondent at a number of addresses and telephone
9 numbers, with no response. Mail sent to Respondent's addresses of record was not returned,
10 letters sent to Respondent's California address were not returned, and Respondent's telephone
11 number of record was no longer in service.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 352876, issued to Gary
16 Dunn;
17 2. Ordering Gary Dunn to pay the Board of Registered Nursing the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 8/17/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

23
24
25
26 SA20010101288 / 10602968
27
28

EXHIBIT A

Janice K. Brewer
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 771-7800 Fax (602) 771-7888
E-Mail: arizona@azbn.gov
Home Page: <http://www.azbn.gov>

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **GARY DUNN**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on March 17, 2010.

SEAL

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Arizona State Board of Nurs

Date Printed: 03/17/2010

By: VICKY DRIVER, LICENSING

NAME GARY DUNN

GENDER: M

ETHNICITY: White - Not of
Hispanic Origin

PLACE OF BIRTH CITY: BEREKLEY

STATE: CA

MAILING ADDRESS

52392 AVENIDA JUAREZ

LA QUINTA CA 92253

County:

Country:

HOME PHONE: N/A

PAGER: N/A

CELL PHONE: N/A

BUSINESS PHONE: N/A

FAX: N/A

E-MAIL:

OTHER NAMES

NAMES USED

REASON

NAMES USED

REASON

<NONE>

AZ LICENSE/CERTIFICATION INFORMATION:

License/Certificate Number: RN143011

License Type: REGISTERED NURSE

Original Date: 04/19/2007

Expiration/Next Renewal Date: 03/15/2010

Last Issued Date: 04/19/2007

Original State of Licensure/Certification: CALIFORNIA

AZ LICENSE STATUS HISTORY

<u>STATUS</u>	<u>FROM</u>	<u>TO</u>	<u>LAST MODIFIED BY:</u>
Multi State Privileges	04/10/2007	03/16/2010	SUSAN BARBER
Active: Good Standing	04/19/2007	03/15/2010	SUSAN BARBER
Complaint/Self Report	10/11/2007	08/04/2009	TRINA SMITH
Under Investigation	08/04/2009	03/15/2010	SUSAN BARBER
Revoked	03/15/2010		SUSAN BARBER

SCHOOL INFORMATION

<u>NAME</u>	<u>LOCATION</u>	<u>NCLEX CODE</u>	<u>DEGREE OBTAINED</u>	<u>GRADUATION DATE</u>
GOLDEN WEST COLLEGE	HUNTINGTON BEACH CA	04446		06/01/1968
State University of New York - Albany	Albany NY		Associates in Other Field	06/24/1982

OTHER STATES OF LICENSURE/CERTIFICATION

<u>LIC/CERT NO</u>	<u>STATE</u>	<u>LIC/CERT TYPE</u>	<u>STATUS</u>	<u>LIC/CERT DATE</u>	<u>ORIG STATE</u>
352876	CA	REGISTERED NURSE	Active: Good Standing	01/31/2008	Y

MOST RECENT APPLICATION INFORMATION

Year: 2006

Employment Status:

Type of Nursing Position:

Major Clinical or Teaching Area in Nursing:

Principle Field of Employment:

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Ste 200
Phoenix, Arizona 85014-3655
602-771-7800

IN THE MATTER OF REGISTERED NURSE
LICENSE NO. RN143011
ISSUED TO:

GARY DUNN,

Respondent.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER NO. 0710021

On January 27, 2010, the Arizona State Board of Nursing ("Board") considered the State's Motion to Deem Allegations Admitted and Recommended Discipline and Respondent's Response to the Motion, if any, at the Arizona Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix Arizona 85014-3655. Seth T. Hargraves, Assistant Attorney General, appeared on behalf of the State. Respondent was not present and was not represented by counsel.

On January 27, 2010, the Board granted the State's Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1663(F) and Notice of Charges No. 0710021 filed in this matter, the Board adopts the following Findings of Fact, Conclusions of Law, and **REVOKES** Respondent's license.

FINDINGS OF FACT

1. Gary Dunn ("Respondent") holds Board issued registered nurse license number RN143011.
2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664 to impose disciplinary sanctions against the holders of nursing licenses for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1667.
3. On or about December 4, 2006 through October 15, 2007, Respondent worked at University Physicians Healthcare at Kino Campus in Tucson, Arizona.

4. On or about October 22, 2007, the Board received a complaint that on or between July 4, 2007 and August 25, 2007, while Respondent was employed at University Physicians Healthcare at Kino Campus, there were several controlled substance discrepancies and medications that were withdrawn without documentation of administration. Thus, the Board opened an investigation.

5. According to a chart review of Respondent's patients at University Physicians Healthcare from on or about July 4, 2007 to September 22, 2007, there were at least 30 missing controlled substance medications ranging from Clonazepam, Vicodin, Percocet, Oxycodone, Lorazepam and Haldol. There are several medications that were removed from the PXYIS system and charted anywhere from one-six hours later and medication removed and charted on Medication Administration Record prior to removal. Medications were also removed from PXYIS and another nurse had signed medication as given at the same time.

6. On or about October 15, 2007, Respondent was terminated from University Physicians Healthcare based upon his failure to perform to minimum acceptable nursing standards related to medication administration and documentation, failure to follow hospital policy regarding this and maintaining records related to controlled substance administration, as well as poor judgment.

7. Over the course of the investigation, particularly between the months of May 1, 2009 until July 22, 2009, several attempts were made to contact Respondent at a number of address and phone numbers with no response. Mail sent to addresses of record was not returned. Letters sent to Respondent's California address have not been returned. Respondent's phone number of record is no longer in service.

CONCLUSIONS OF LAW

1. The conduct and circumstances alleged in the Findings of Fact constitute violations of A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(16)(d),(h), and (j), and A.A.C. R4-19-403(B) (1),

1 (7), (8) (a), (b), (9) and (31) (adopted effective November 13, 2005)

2 2. The conduct and circumstances described in the Findings of Fact constitute sufficient
3 cause pursuant to A.R.S. § 32-1664 (N) to suspend or revoke the license of Gary Dunn to practice as a
4 registered nurse in the State of Arizona.
5

6 **ORDER**

7 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following
8 Order:

9 Pursuant to A.R.S. § 32-1664(N), the Board hereby **REVOKES** registered nurse license
10 number RN143011 issued to Gary Dunn.
11

12 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

13 Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing
14 or review within 30 days after service of this decision with the Arizona State Board of Nursing.
15 The motion for rehearing or review shall be made to the attention of Susan Barber, Arizona State
16 Board of Nursing, 4747 North 7th Street Ste 200, Phoenix AZ 85014-3655, and must set forth
17 legally sufficient reasons for granting a rehearing. A.A.C. R4-19-608.
18

19 For answers to questions regarding a rehearing, contact Susan Barber at (602) 771-7851.
20 Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review
21 within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial
22 review of this decision.
23

24 This decision is effective upon expiration of the time for filing a request for rehearing or
25 review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.
26

27 Respondent may apply for reinstatement of said license pursuant to A.A.C. R4-19-404 after a
28 period of five years.
29

1 DATED this 27th day of January, 2010.

2 ARIZONA STATE BOARD OF NURSING

3 SEAL

4 *Joey Ridenour R.N. M.N. F.A.A.N.*

5 Joey Ridenour, R.N., M.N., F.A.A.N.
6 Executive Director

7 COPIES mailed February 5, 2010, by Certified Mail No. 7009 0080 0000 0434 0092 and First Class
8 Mail to:

9 Gary Dunn
10 52392 Avenida Juarez
11 La Qunita CA 92253

12 COPIES mailed February 5, 2010, by First Class Mail to:

13 Seth T. Hargraves
14 Assistant Attorney General
15 1275 W Washington
16 Phoenix AZ 85007

17 By: Vicky Driver
18
19
20
21
22
23
24
25
26
27
28
29